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### THE ILLEGAL ENFORCEMENT OF CRIMINAL LAW\*

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The tendency everywhere, in vegetable and animal life, is to revert to original primitive types. In the absence of mental and moral training, the human biped steers constantly and inevitably backward to his cave ancestor.

The average American, while easily aroused and led by passion, willingly bends to the law's behests and looks to it for justice and safety; but when misled by anarchy and demagoguery, beset by some great temptation or obsessed by some primeval passion, then the training and influence of ages of civilization disappear.

The average American community, under normalcy, is gentle, well bred, well fed, keeping step, as well as humanity is expected to do, with the law and the prophets; when in the calm, no inexperienced onlooker could ever conceive that it could be lashed into storm.

But when the crisis comes, when swayed by prejudice and passion, when aroused by race clash and antagonism; when deceived by demagogues and shysters; when shocked by some atrocious crime; when threatened with loss of place; when gnawed with famine; when excited by class hatred and distrust; when betrayed with political or religious frenzy—the erstwhile peaceable, happy, law-abiding community becomes a besom of destruction; it is halted by no injustice, no cruelty, no brutality; it is deaf to the voice of reason, mercy and humanity.

Such is the mob—the mob major—maddened by lust, plunder, passion, hunger, hatred, personal revenge; the mob subjective, whose madness is superinduced by its own real or imaginary wrongs, by its own real or imaginary interests or gratification.

Noteworthy among the mob species is the lynching mob. It might justly be called the objective mob.

Lynching is defined by Rapalje and Lawrence as mob vengeance upon a person suspected of crime. Both Worcester and Webster define it as the infliction of punishment without legal trial by a mob or by unauthorized persons.

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\*An address delivered by Luther Z. Rosser, of Atlanta, Ga., before the American Bar Association at Cincinnati, Sept. 2, 1921.

These definitions are, in fact, justified by experience. Ordinarily, and indeed almost universally, a crime, shocking the community by its brutality, is the occasion for the formation and operation of a band of lynchers. The usual, ordinary violations of the criminal law, and generally even brutal and shocking crimes, run their regular course in the courts of the various states without suggestion or expectation of mob violence. But at unexpected intervals some crime, by reason of its innate repulsiveness, its brutality and wantonness, disrupts the equilibrium of the community and the mob forms quickly, spontaneously, and in its restless fury, forgetful of all law and restraint, works its primitive punishment; or when the community's calm has already been disturbed by a series of crimes, or when, for any other reason, the community is already in eruption, crimes that would otherwise and at other times be left to ordinary judicial procedure become the subject of the mob's action.

Inevitably, not all those lynched are guilty. In the nature of things there is neither time nor opportunity for real truth-seeking investigation. The very essence of the mob is swift action, without reflection. Its only law—the very law of its existence—is to act and then reflect, to hang first and try afterwards. Its sole purpose is to supersede and render impossible the form and substance of a judicial hearing. The mob feels no need for pleading, evidence or sentence. It has no doubt, no question. The crime has certainly been committed, it has the criminal in its power; wherefore should there be hesitation or delay? That the unfortunate might escape judicial sentence not only does not deter, but is often itself an incentive to mob action. The calm, careful deliberation of the court maddens the mob. Why should one so palpably guilty take the time of the court and, perchance, escape through its meshes?

The only court action that lynchers respect is that variety alas! too prevalent, which most nearly approaches their own methods. What lawyer of large experience has not seen, in some inflamed, superheated community, the unfortunate prisoner lynched in the courthouse, although allowed all the naked, dry forms of the law?

As the lynchers reach a judgment without aid from the law,

of the subterfuges used by mobs to excuse their actions are the delay and the clemency of the courts. The mob is society in eruption, and it is too much to hope that it will reach only adequate and merciful judgments. It subconsciously seeks justification for its existence and deeds upon the theory that ordinary methods and remedies have failed and the right end can be reached only by adopting radical processes and extreme, severe remedies. Great wrongs demand extreme punishment. Its existence presupposes the wrong, and it is remedied for the most part with death. The fact that the punishment may not fit the crime does not appeal to the mob. There is neither time nor inclination to deal with such a subtle question—only a punishment swift and terrible can come from the mob. It is a monster whose maw is insatiable.

Lynching is no new demonstration of the mob spirit. From Colonel Lynch it may have, and doubtless did, take its modern appellation, but in such taking there was no infantile christening. Saul was one of the earlier and most dangerous types of lynchers; and a long line of lynchers, lay and evangelical, preceded and succeeded him. Indeed, lynching has a long and distinguished pedigree, sometimes indistinguishably commingled with the general mob family and sometimes branching off from the genus as a well recognized species with a nomenclature of its own. Of the latter were the Vemic tribunals of Westphalia, which executed thieves and murderers caught in the act, without delay or trial; and the Jedwood justice, "hang in haste and try at leisure." Lydford law is thus aptly defined:

I oft have heard of Lydford law,  
How in the morn they hang and draw,  
And sit in judgment after.

But no matter how it may intertwine and commingle with the records of the mob family, and no matter whether with or without distinct or specific nomenclature, the mob spirit now designated as lynch law is as old as human passion. It is older than any form of organized government. In primitive times it was itself the law and it took ages of development and restraint to outlaw it; and although long outlawed, it has never been destroyed and has never been wholly banished. Now and then it

emerges from its concealment, its outlawry is for the time forgotten and under its sway the people, in fury and frenzy, deal directly with the supposed criminal, scorning all form and all procedure. That such is the truth all good men deplore, but no wise man will forget.

The mob spirit, including lynching, has no geographical limitations. Whole nations may for a long period be free from its debasing influence. England, prior to the World War, was instanced as a conspicuous example. England, with an Anglo-Saxon, homogeneous population, stolid and well poised, with fixed stations in life, always free, densely populated, so that its citizens were constantly under the eye and in the very presence of its law officers, for two centuries secure from serious internal dissension and for a century saved from the corruption of serious foreign wars, has been happily free from the aroused spirit of the mob. It is too much to hope that, even in staid England, such dormant spirit may not, as a result of the mighty upheaval of the recent war, have a terrible awakening. Indeed, it is even now awaking from its century sleep. That it has lain dormant so long is not at all conclusive that it has ceased to exist.

In that nook-shotten isle of Albion.

The lynching spirit exists in England because men live there, and she will be thrice blessed if it sleeps as quietly in the future as in the past.

On the contrary, America—East, West, North and South—has, in all its history, been the breeding ground for mobs, racial, political, labor, religious—mobs great and small. Abraham Lincoln, in an address at Springfield, January 27, 1837, moved there-to by tragedies in Mississippi and Missouri, said of mobs and their atrocities:

“Accounts of outrages committed by mobs form the everyday news of the times. They have pervaded the country from New England to Louisiana; they are neither peculiar to the eternal snows of the former nor the burning sands of the latter; they are not the creature of climate, neither are they confined to the slaveholding or the non-slaveholding states. Alike they spring up among the pleasure-hunting masters of southern slaves, and the order-loving citizens of the land of

steady habits. Whatever then their cause may be, it is common to the whole country."

It necessarily takes no great crisis to organize a mob. The sudden, unexpected, impassioned appeal to class, racial or religious prejudice may at any time furnish the electric spark that will explode the mob magazine.

The American people are an ebullient, volatile people, likely to boil over or blow up, often without rhyme or reason. The explanation is plainly apparent. Our population is hopelessly, inextricably heterogeneous. Approximately ten millions are of African descent, a little over 50 years released from the ignorance and dependence of slavery, the poise and self-control of many of whom are even now near zero and whose ethnic characteristics, mental and moral traits, exaggerated by a sudden licentious freedom, marvelously excite to race prejudice, discord and riot.

A large and dangerous percentage of our white citizens have, without social, political or educational preparation, hastily gathered here from the four corners of the earth. They have taken asylum here with no conception or appreciation of our system of government. They had but lately escaped from the tyranny and oppression of laws in whose making they had no part, and it is a tedious process to make them believe that wise and just laws can be made and safely obeyed, and that liberty is self-restraint and not license. They have just fled from class obstructions and restricted fields of labor, with the expectation that they will enjoy, in their new homes, social license and unmolested freedom of labor. It has been and will be difficult to convince such newcomers that they cannot labor when they will, how they will and for what they will, and that they can justly kill or destroy to keep their places or to keep anyone else out if, for any reason, they discard them.

America has boasted herself that she is the asylum for the governmental vagarist and heretic, no matter what their creed or lack of creed. She has been a very Cave of Adullam, to which have gathered "everyone that was in distress, and everyone that was in debt, and everyone that was discontented." To be the world's melting pot may be a nation's glory, but it has its ter-

rible burdens. The social reaction in so great a melting pot will surely manifest itself in social storms and earthquakes.

Serious internal dissensions do not make for law and order. The American citizen has been largely denied that poise and self-restraint that have their growth in long eras of profound internal peace. The Revolutionary War was not only a war with England, but was also an internecine conflict between Americans themselves. The slavery storm arose before the charge of Tory ceased to be the acme of shame and hate, culminating in the Civil War. The white citizens of military age spent four years in its death grapple, with all its attendant confusion and demoralization. A large part of the Union was invaded and devastated, its property confiscated, its slaves made masters. The license and abandon of the conqueror and the humiliation and shame of the conquered beget neither law nor order. "Silent leges inter arma."

The very privileges of the thoughtless American have a tendency to beguile him into lynching. He makes the laws, he elects the judges, governors and sheriffs. He, in common with his neighbors, sits upon the jury. He is very sure that the whole machinery of government is his, and he is half suspicious that he is himself the government. What reason, therefore, in the case of well known or clearly proven criminals, is there why he and his neighbors may not dispense with the form of procedure that they themselves have made and with the services of judges, governors and sheriffs whom they have elected, and themselves dispense justice speedily and by direct rather than by indirect and circuitous methods? From the beginning the whole subject was in his hands. He could have made the law other than it is and just as he would. Since guilt is clear, why can he not, *quoad hoc*, dispense with these forms made by himself? Why can he not break down all forms and himself directly apply the law? While such logic is monstrous, the excited mob unconsciously accepts it and acts upon it, forgetting that such logic will destroy all law and lead to anarchy and certain ruin.

Lynching is also encouraged by the prevalent political heresies—let the people have what they want, let the majority rule, "*vox populi vox Dei*." With their nauseating nostrums the shyster and demagogue have poisoned an incredible number of the hon-

est but unthinking. The mob readily persuades itself that it is the people and that it is entitled to its way. It is for the time the majority, at least in temporary power and brute force, and it is entitled to rule. It imagines itself to be the voice of the people, and hence its voice is the voice of God.

The legal faddist and reformer have done more than their share in keeping alive and strengthening the mob spirit generally, and the lynching spirit especially. The foundations of the temple cannot be undermined and at the same time the temple itself be preserved in its full strength and beauty. No more can constitutions and the eternal, universal foundations of the law be assailed and discounted without marring their beauty and grace, without lessening their grasp upon the will and obedience of the people, and without weakening their loins and shortening their arms.

Just so far as the legal iconoclasts have, by their chatter and scribbling, reached and misled the thoughtless and unwary, just so far have dutiful respect and docile obedience to the law been shattered; just so far has the mob been strengthened and emboldened; just so far has the jurisdiction of Judge Lynch been enlarged.

If the Constitution was builded upon an insecure foundation and false legal architectural lines, or if it could not stand the strain or attrition of government in action, why should it further appeal to the imagination or reason of the people? Why should it further withhold their hands or restrain their wills? In statecraft as well as in commerce, sailors will not knowingly continue service in a rotten ship. If the fundamentals were vagaries, founded on injustice and unrighteousness, for the purpose of protecting the strong and oppressing the weak, to secure the continued reign of one class and the service of another, then the whole superstructure, by the combined efforts of both classes, ought to be destroyed, by the one in shame and by the other in hate; and that, too, although in its place, for the time being, the mob may make the law and Judge Lynch execute it.

If the Constitution ought to be suddenly changed whenever and wherever it restrains an impatient, excited and impassioned majority, could such a barrier ever stand between the majority and its purpose? How could it ever shield the helpless minority?



Why should not the majority go straight to its purpose, without any intervening halts or barriers? Why is not every step taken between the birth of its purpose and its realization but so much useless lost motion?

If the judgments of the courts are so devoid of inherent strength and sacredness that they may be rightfully recalled by the will of the majority, then why trouble the courts to give birth to so many sickly, spineless things? If the judgment of the majority is the ultima thule, why the time and trouble expended in formal, useless lawsuits? Why not at once the imperial will of the mob rule? Why any appeal to Pilate? Why not let the cry, "Crucify him! Crucify him!" be the beginning and Mount Calvary the end?

No faddist or reformer wishes the culmination of such a calamity; but they forget, in their wild zeal and frenzy, that when they destroy every beacon and compass of the past, there is left nothing but the storm and the night.

Neither in the past nor now does the jurisdiction of Judge Lynch extend only to rape cases. As might be expected, the Indians were the first victims in America. Prior to the Civil War, summary execution of negroes was quite unusual. Judge Lynch's victims were, for the most part, white men. The negro was scarcely ever lynched except in cases of conspiracy or insurrection. Until 1850 negroes, even when they killed their masters, mistresses or overseers, were turned over to the law.

Hanging by vigilance committees in California and other Western states for crimes against life and property and for political corruption was, in early days, too common to excite comment.

During the Civil War, and immediately thereafter, the lynching spirit at least in the South was temporarily dormant; yet such lynchings as occurred were almost wholly for other causes than rape.

It is not to be gainsaid that originally rape had little influence in establishing lynch courts and enforcing lynch law. The first power such courts exercised was the punishment of other crimes which, for the time being, had aroused beyond control the apprehension; passion and prejudice of the people. Whenever and wherever the public peace and safety were supposed to be

threatened by crime, and public opinion was too impatient or too inflamed to await the orderly procedure of courts, no matter what the crime—Indian depredations, murder, arson, slave conspiracy or insurrection, incitement of slaves, concealing of slaves, slave stealing, cattle stealing, robbery, gambling—Judge Lynch's court was organized and his procedure enforced.

Of all crimes, rape, especially if brutal and committed by one of an inferior race, most quickly, fiercely and uncontrollably excites human passion and revenge. When the innocent and pure are ravished by the brutal and bestial, unless the fear of God and the majesty of the law be deeply imbedded in the hearts and minds of the people, the mob, wherever the Anglo-Saxon rules, will break down all law, human or divine, and in its primitive fierceness will rend and tear and burn. But be it said in fairness to all, that previous to the evil influences just before and after the Civil War, rape was rarely committed and practically never by the negroes upon the whites.

Criminal repetition or criminal brutality are the *sine qua non* of even partial public approval of lynch law. In the absence of these, lynch law cannot survive even in communities where the public conscience is at the lowest level. Prior to the Reconstruction era the crime of rape was infrequent and was unaccompanied by racial hate and brutality. Public passion had not then become so inflamed that it overlooked, if it did not approve, mob law as a necessary remedy.

Reconstruction, with its carpetbaggers, its scalawags, and its horde of pious, misguided troublemakers, wrought, at least in the South, a swift and disastrous change. They at once, as a means to their various ends, destroyed the negro's confidence in and reliance on his old master. They influenced the ignorant negro with dreams of social equality and intermarriage with the whites; they impregnated his very soul with the doctrine that he was the equal of any white man, socially, mentally and morally, and that he had but to assert himself to become his superior and his master. They robbed him of his every stay, his every comfort and hope; and they gave him instead an imagination diseased and distorted, and developed in him a malignant hatred for the only friend he had ever had, and, if experience is of any value, the only real, genuine friend he is, in the near future,

likely to have. They found him simple, trusting, polite, good-natured and hopeful; they bereft him, so far as they were able, of all these simple, lovable qualities and, in their stead, they gave him unrest, suspicion, hate, a diseased and inflamed ego, an ill-balanced ambition to strut and bluster in place and position for which he had no aptitude by mental or moral equipment or by tradition or training. They found him journeying through life in calm and in happiness and content; they destroyed his chart and compass and committed him to the darkness and storm.

The inevitable happened. The millions of lately freed negroes broke loose from all their old moorings. Labor was a synonym for slavery, and they loafed. Freedom involved full liberty of speech, and they preached. They had accumulated for him what the white man had, and they took freely when and where they could. He was the equal of any white woman, and if she would not willingly join with him in wedlock, why should he not gratify his lust, even if it did require mutilation and murder? To him liberty meant license, and there swept over the South a wave of chaos and crime that is still today a nightmare to those who lived through it and beyond the comprehension of those who did not.

Prior to the Reconstruction era, most negro crimes were petty ones. Murder of the whites was rare and rape so infrequent as not to excite racial apprehension; but in the crime wave accompanying reconstruction, murder and rape were commingled with a frequency that horrified and appalled.

There seems to have been no effort to keep a complete record prior to 1885, but from sources obtainable, from 1850 to 1860 in the whole country, for rape on white women, three negroes were legally executed and four were burned at the stake; during 1866, 1867 and 1868, three negroes were lynched for rape and four legally executed; while in 1873, 1874 and 1875, 26 negroes were lynched for rape and four for attempted rape, and six were legally executed. Taking the period from 1885 to the present time, it is admitted by the negroes themselves that about one-fourth of the lynchings of negroes were for rape on white women, and this is taken as proof positive that it is not the raping of white women by negroes that keeps alive the lynching spirit in the South.

That it is not the sole cause is readily admitted, and that even rape does not justify it is not open to dispute, but it cannot be fairly disputed that the frequent fiendish raping of white women by negroes does, as nothing else does or can, nourish and foster lynching and gives it whatever apparent approbation it enjoys. The admission that one-fourth of all the lynchings is for rape is fatal to the contention that it is inherent viciousness of the mob and not the raping of white women that explains the Southern mob.

Nothing so arouses the hate and revenge of the Anglo-Saxon as does the crime of rape. The equilibrium of a community may successfully stand the shock of murder, even cowardly, brutal murder; and may even withstand, though most unlikely, the shock of rape when the woman is defiled by one of her own race, without murder or mutilation; but when a woman, innocent and of good repute, is ravished, mutilated and murdered, and especially by a brutal, ignorant member of an inferior and socially ostracized race, then nothing but Divine Providence or *vis major* of arms can hold the fury of the mob.

No man with blood in his veins can, in the quiet of an unprotected rural community, stand in the presence of the ravished, mutilated and murdered body of an innocent, simple child of the people, see the pitiful evidence of her struggle for self-defense, and hear the wild wail of shame and grief from her kindred and friends, and at the same time, holding his primitive impulses in leash, preach of "righteousness, temperance, and the judgment to come." Under such surroundings the great Apostle to the Gentiles, after his conversion, might have done so, but there are few Americans of 1921 who have the self-control or the Divine grace to quiet the call of the wild and, in the interest of social peace and quiet, calmly uphold the majesty of the law. The ordinary American, no matter where his abode, would most likely forget God and curse the law. The man who can stand calm and collected under such circumstances is indeed a rare man, who has purged himself of all his native wildness. Nor is it likely to contribute to the serenity of the man so situated to remind him that such crimes are only one-fourth of all the crimes which provoke lynching. Just as well remind a community afflicted with disease that only one-fourth of its ailments

are cholera or typhus, or a community wrecked by storm and earthquake to soothe them by the statement that only one-fourth of the forces of nature are storm and earthquake.

Without a final settlement of the dispute as to whether rape initiated and sustains the present deplorable lynching situation, one thing is sure—it has not in the past, nor will it be in the future, restricted to rape. Every lynching, no matter what the cause, loosens public restraint and leaves the public conscience seared. Law violation does not stop with the infraction of one law, no matter how unpopular or unwise the broken law. When Judge Lynch's court is once called into existence, there is no hope that his jurisdiction will or can be restricted. It will execute today for rape or murder; tomorrow for theft or burglary. Today the lynchers, no matter how unwisely, may have in mind the good order, peace and safety of society; tomorrow, infected by evil example, they may be the ignorant, the irresponsible and the evil-disposed, with no thought of punishing crime and assuring the public safety and order, but bent solely on promoting their own evil designs or gratifying personal revenge. Just as the waters of a great reservoir will, when loosened, engulf and destroy the whole valley below, so will the pent-up mob spirit of the multitude, when unloosed and unrestrained, engulf and destroy the whole social fabric. The mob spirit is the very antithesis of order, peace and safety.

The search for the cause of lynching is important only as a means for seeking to end it. No matter what the cause, it will certainly end, first, when negroes cease raping white women; and, second, when the white people of the country have reached that height of perfect self-control when they can, in the presence of ravished, murdered innocence, say to the law: "Thy will and not mine be done." When that condition is reached, if ever it is reached, as the result of religious and moral teaching and training in right thinking, then lynching will cease and Judge Lynch will go into retirement from which only some mighty social upheaval can recall him.

The sudden cessation of negro rapes might not in a day stop lynching; evil tendencies and habits, long indulged in, are never soon ended. But in the South at least, such cessation would

finally end lynching as speedily and effectively as evil things can be ended.

Lynching has been endured, but it has never met the approbation of the intelligent-thinking people of the South. But the horror of the negro rapist, the dread and danger of him, which for a generation has alarmed and disquieted every unprotected rural district in the South, has stunned them into inaction or appalled them into action, against their own hearts and consciences. Let this one dark terror end; free the women of the South from this ever dreaded monster, then lynchings for all other crimes will shrink from view like some evil spirit of the night. The public opinion that is at least supine, if not indulgent, will rise in its might and purge the South of its evil lynching report.

Whether rape has been or can be lessened or deterred by lynchings cannot be fairly settled by statistics. But even statistics tend to answer in the affirmative. Immediately after the Civil War, of the lynching crimes rape is estimated at 43 per cent for the years 1866, 1867 and 1868; and 70 per cent for the years 1873, 1874 and 1875; while for the year 1920 only about one-third were lynchings for rape and attempt to rape.

The proportion of rape to other crimes has not, since 1885, been uniform. Years when rape reached a high percentage were usually followed by years when the percentage was small, and vice versa; exciting at least a suspicion that the horrors of lynching did linger in the African mind, at least partially, for a twelve-month.

But aside from statistics, which in the case of the negro and negro crimes are particularly incomplete and misleading, it can never be determined whether lynching has or has not lessened or deterred rape. What would have been the result if no negro rapist had even been lynched; if all of them had been turned over to the courts to be legally convicted like a hero and to be legally executed like a martyr? To the average ignorant, brutal negro rapist, the courthouse is but a stage where, for a while, he struts as the leading actor; the gallows is but a gateway to martyrdom and a martyr's crown.

Judged by ordinary human standards and experiences, the conclusion would be inevitable that the horrors of lynching would deter the rapist and lessen rape. The certainty of torture, muti-

lation and the faggot would lessen all other crimes, would deter all other criminals.

Now and then in the world's history, some priest or prophet, rather than disavow his faith, has defied torture and death; but in all times the fear of them would cause the multitude to abjure any faith, to recant any doctrine. Has it been reserved to the brutal African rapist to be removed from all fear of the torch? Does some weird, barbarous fascination for his crime rid him of all fear of punishment, whatever its severity?

If fear of punishment by lynching has not, and will not deter or lessen the crime of rape, then indeed have the people of the South been given over to a sad fate. If lynching does not deter the negro rapist, then certainly the law will not. The punishment of Judge Lynch is certain, speedy and terrible. From it there is no loophole for escape, no time for preparation, nor for forgiveness. It is a monster of destruction, without hope and without mercy. The law moves with deliberation, decides with justice and executes with mercy. Upon what theory would the law lessen and deter, while lynching would not?

It is useless to suggest that there inheres in the law some potent charm that could move the negro rapist or frighten him into obedience. In a vague way he knows that the law stands between him and his passion, but it is too calm in its procedure. It will punish him for his crime, but the judgment of the law does not equal that of Judge Lynch in striking terror.

Not all rapists have been lynched. Since reconstruction a large number of them have been legally executed. Indeed, in cities and in populous centers, well policed or protected by the military, legal execution is almost the invariable rule. If, then, the contention is true that rape has not only not been lessened but is on the increase, then truly there should be alarm. If neither lynching nor the law, nor both combined, can halt this demon, then indeed are we undone.

To the complaint of the negro against lynching the white man has, often in effect, and at times in words, said: "Stop raping our women and we will stop lynching your rapists." To the lay, undisciplined mind this is a fair proposition, and when not accepted by the negro (as necessarily it cannot be), the white man is prone to construe the non-acceptance as a declaration by the

negro that he will not stop raping, but that the white man must stop lynching. Of course, if feasible, this would be a rough and ready solution of the problem, and it not at all follows that because the negro will not voluntarily stop raping, the white man is justified in the continuation of lynching. Wrong ought to cease and that, too, without consideration. Raping ought to stop, and the lynching nightmare must, in the interest of both races, stop.

But much harm has been done by this unilateral discussion of this bilateral subject. There has been a great outcry against lynchers and the expenditure of a great deal of maudlin sympathy for the lynched. The preachers, full of a great deal of misinformation and a desire for notoriety, have in the name of religion vilified and abused the white people of the South, without a word of condemnation for the rapist and without a word of sympathy for the plight of the whites. The politician, keen for votes with which to boost his mediocrity into place and power, has worried and exhausted himself in fierce partisan tirades against the Southern whites, without a suggestion, and perhaps with a denial, that any provocation or conscious wrong exists on the part of the negro. Teachers, in hordes, have been zealous in instilling in the negro the full lesson of his political rights, but there has been raised no concerted cry against his lustful crimes against white women.

This one-sided discussion has not only been unfair, but has worked great harm. From it the negro unconsciously assumes an attitude of injured innocence, and the white man the dogged stubbornness of one who feels himself unfairly treated. Let the friends of humanity and law cry out day and night against lynching, and spare not! but in so doing, do not pass by, in excuse or silence, the hideous criminals who keep lynching alive. On the contrary, flay them with a whip of scorpions! Public opinion, in its full strength, directed fairly and impartially against this fearfully evil situation, will do a great work for humanity. A one-sided discussion and condemnation will accomplish not even half the difficult task at hand.

Not a few modern criminal reformers would readjust our criminal procedure to meet the mob's impatient thirst for re-



venge. They would take from the prisoner every safeguard now vouchsafed to him by the wise and persistent struggles of a hundred years. They would speed up the courts so that they might run a more even race with the mob. If such reformers had their way, a court, in the time of excitement and passion, presided over by a weak and pliant judge, and guided by a prosecuting officer ambitious for advancement and greedy for public favor, could be distinguished from Judge Lynch's court only by a competent expert.

Our judicial system is not perfect, but lynchings cannot be attributed to that fact. Whatever the faults of our legal system, it is not responsible for lynch law. The mob lynches not by reason of any defect or delay in the law, but because the aroused passions of the mob want no law and will wait for no law, no matter how certain, no matter how swift. Lynching is not a protest against law, but is the outburst of primeval passion that ignores all law, waits on no court, and is satisfied with no punishment which it does not select and which it does not inflict. No legal sentence is severe enough, no legal execution brutal enough. The mob wants to rend and tear, mutilate and burn. It will not tolerate the sheriff as executioner. "Vengeance is mine," saith the mob, "and I will wreak it now in a whirlwind of passion and blood."

The law is the child of civilization—the mob is the spirit of the jungle, and it will no more wait upon the law than would the jungle on civilization.

The demagogue who excuses lynching or condones it under the pretense of defects in our legal system or the misuse of the pardoning power is a traitor to the state. And he is the arch-traitor of them all who, as the purchase price of its votes, corruptly deifies the mob as the savior of the state from courts which he claims are inefficient and from governors he charges are faithless.

Nothing but the uplift of both races will eradicate lynching—the white race lifted upward to a calm atmosphere of temperance and self-control; the negro uplifted from his present ungovernable criminal lust. This will not be done by the law alone; the disease is too deep seated and of too long standing to be cured by the mere *fiat* of the criminal law. There must be an

awakening of the public conscience, an expansion of the public understanding, and this must be done *pari passu*. Mere tirades against the white race will not stay their hands and will encourage the negro to greater lust and brutality.

The mob spirit manifested in lynching is subversive of all law, of all peace and safety, but not more so than is the mob spirit wherever, and whenever, and however manifested. It has become the fad to arraign lynching as the *anathema maranatha* of mob violence. Such arraignment is as far from truth as most fads.

Few agencies can be more destructive of social order and good government than the labor mob. It does not pretend to punish for violation of the criminal law, but destroys all property, no matter whose it is, that obstructs its selfish ends. It mutilates, maims and kills not only those who do not humbly bow to its bidding, but as well the innocent who happen to be within the radius of the conflict it has provoked. It bullies sheriffs, defies judges, ignores legislatures and congresses, and threatens governors and presidents. And all this not because of any crime committed or any public wrong done, but solely because others decline to contract with it on its own terms and because others wish to work when it will not.

The physical havoc wrought by the labor mob is appalling. In the last decade millions of dollars in property have been destroyed by it needlessly, ruthlessly! Its victims, if accurately known, would far outnumber the unhappy victims of Judge Lynch. In a small area of one of the states not much larger than an ordinary county, the victims of the labor mob outnumber all of Judge Lynch's victims for a year past. The grand total of all the victims of all such mobs in the United States for any one year of the last dozen would surprise and alarm those who have not kept in touch with the labor troubles of the past decade.

Too often, the labor mob is born not as the result of a sudden gust of ungovernable passion, but of deliberation and preparation. Each mob is not an isolation, but a part of a fixed system, from which is drawn experience, courage and hope. It may, and often does, live long enough to vote and to exert its corrupting influence upon legislation and administration, to sanction the

conduct and reaffirm the creeds of other such mobs, past and present, and by new schemes and devices to strengthen and secure the universal object of all such mobs. The members are too often not few, but include thousands; its area of operations not restricted, but too often includes a province. It is not always dissolved by the active presence of arms or constables, but too often, in defiance of both, continues its work of destruction and murder. And when it does dissolve, it does not slink away in darkness or fear, but boldly, defiantly, boasting of its deeds and with the promise of re-assemblage on its lips.

No matter what may be said in explanation, nothing can be said in extenuation of lynching. It is an inexcusable and pernicious part of the mob spirit that is so constantly and industriously laying the axe at the root of this government. All parties ought to seek its destruction by persuasion, by teaching; and last, but not least, by the terrors of the law. But the doing so ought not to be made the occasion or the excuse to extenuate or conceal the mighty, deadly germs of which lynching is only one of the species. Do not let the demagogue hide his cowardice when he glosses over or excuses the rioting labor mob by his lusty screams against lynching, especially if the lynchers are non-residents. Do not overlook or excuse the hypocritical teacher, preacher or reformer who vents his spleen and partisanship in decrying lynching in another state, but fawns upon the mob spirit that rages at his very door. To attack one of the germs only, and leave the other one to safely thrive, is governmental suicide. The only safety is impartial annihilation of the whole poisonous, pestilential brood. Annihilation not dallying, is the only guarantee of national safety.